

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

GABRIEL GIGENA,

Plaintiff,

v.

STATE OF CALIFORNIA,

Defendant.

Case No. 2:21-cv-00082-TLN-JDP (PS)

ORDER GRANTING MOTION TO
PROCEED IN FORMA PAUPERIS

ECF No. 2

FINDINGS AND RECOMMENDATIONS TO
DISMISS THIS CASE AS FRIVOLOUS

OBJECTIONS DUE WITHIN 14 DAYS

ORDER

Plaintiff moves to proceed without prepayment of filing fees, ECF No. 2, and his affidavit satisfies the relevant requirements, see 28 U.S.C. § 1915(a). I therefore grant the motion.

FINDINGS AND RECOMMENDATIONS

With plaintiff proceeding *in forma pauperis*, his complaint is now subject to screening under 28 U.S.C. § 1915(e). Plaintiff asserts that California is the property of the Kingdom of Hayah Hawah. ECF No. 1 at 4. He alleges that “the Free Sovereign People of Hayah Hawah” possess a right to control the voting shares for California and American Indian territories, and that they have pledged those shares to Donald Trump. *Id.* at 2. Plaintiff seeks to have California returned to the kingdom and to pledge California’s electoral votes to President Trump. *Id.* at 7.

1 The court must dismiss any action filed *in forma pauperis* that is factually frivolous,
2 malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a
3 defendant who is immune to suit. 28 U.S.C. § 1915(e)(2)(B). Factual frivolousness includes
4 allegations that are “clearly baseless” or that “describe[e] fantastic or delusional scenarios.”
5 *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). Plaintiff’s complaint is frivolous; in the
6 language of *Neitzke*, its claims are fantastic and delusional. Accordingly, I recommend dismissal.

7 I submit these findings and recommendations to the district judge under 28 U.S.C.
8 § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court,
9 Eastern District of California. Within 14 days of the service of the findings and
10 recommendations, the parties may file written objections to the findings and recommendations
11 with the court and serve a copy on all parties. That document should be captioned “Objections to
12 Magistrate Judge’s Findings and Recommendations.” The district judge will review the findings
13 and recommendations under 28 U.S.C. § 636(b)(1)(C).

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15 IT IS SO ORDERED.

16 Dated: April 7, 2021


17 JEREMY D. PETERSON
18 UNITED STATES MAGISTRATE JUDGE

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